

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address RON BENDER (SBN 143364) JULIET Y. OH (SBN 211414) LEVENE, NEALE, BENDER, YOO & BRILL L.L.P. 10250 Constellation Boulevard, Suite 1700 Los Angeles, California 90067 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 Email: RB@LNBYB.COM; JYO@LNBYB.COM <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor and Debtor-in-Possession	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION	
In re: THE SOURCE HOTEL, LLC, Debtor(s).	CASE NO.: 8:21-bk-10525-ES CHAPTER: 11 APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE [LBR 9075-1(b)]

1. Movant applies under LBR 9075-1(b) for an order setting a hearing on shortened notice on the following motion:
 - a. Title of motion: Notice Of Motion And Motion For Entry Of Order Authorizing Debtor To Provide Adequate Assurance Of Future Payment To Utility Companies
 - b. Date of filing of motion: 3/12/2021
2. Compliance with LBR 9075-1(b)(2)(A): (**The following three sections must be completed**):
 - a. Briefly specify the relief requested in the motion:

Debtor seeks the entry of a Court order, pursuant to 11 U.S.C. § 366, authorizing the Debtor to provide adequate assurance of future payment to certain utility companies, in the form of cash deposits totaling approximately \$1,950.00.

- b. Identify the parties affected by the relief requested in the motion:

All known secured creditors, including Shady Bird Lending, LLC, Debtor's utility companies

- c. State the reasons necessitating a hearing on shortened time:

11 U.S.C. § 366 permits the Debtor's utility companies to discontinue service to the Debtor based on the commencement of the Debtor's bankruptcy case or the failure of the Debtor to pay a pre-petition debt for utility services provided if the Debtor does not furnish adequate assurance of payment in the form of cash deposits (or other security) within the first thirty (30) days after the filing of the Debtor's bankruptcy case. The Debtor filed its bankruptcy case on February 26, 2021, so the 30th day thereafter falls on Sunday, March 28, 2021. To ensure that the amount of each proposed cash deposit is approved by the Court and delivered to the respective utility company before Sunday, March 28, 2021, the Debtor is seeking to have the hearing on the Motion held on shortened notice, on or before Wednesday, March 24, 2021.

3. Compliance with LBR 9075-1(b)(2)(B): The attached declaration(s) justifies setting a hearing on shortened notice, and establishes a *prima facie* basis for the granting of the motion.
4. Movant has lodged a proposed Order Setting Hearing on Shortened Notice on mandatory form F 9075-1.1.ORDER .SHORT.NOTICE

Date: 3/12/2021

Levene, Neale, Bender, Yoo & Brill L.L.P.

Printed name of law firm

/s/ Juliet Y. Oh

Signature of individual Movant or attorney for Movant

Juliet Y. Oh

Printed name of individual Movant or attorney for Movant

DECLARATION OF DONALD CHAE

I, Donald Chae, hereby declare as follows:

1. I am the Manager and a member of DMC Investment Holdings, LLC, which is the sole member of The Source Hotel, LLC, a California limited liability company and the debtor and debtor-in-possession herein (the “Debtor”), and I am therefore familiar with the business operations and financial records of the Debtor. I have personal knowledge of the facts set forth below and, if called to testify, I would and could competently testify thereto.

2. I make this declaration in support of the application to which this declaration is annexed (the “Application”).

3. The Debtor commenced its bankruptcy case by filing a voluntary petition under Chapter 11 of the Bankruptcy Code on February 26, 2021 (the “Petition Date”). The Debtor is continuing to manage its financial affairs and operate its bankruptcy estate as a debtor in possession.

4. Since 2014, the Debtor has been developing a full-service seven-story hotel with 178 rooms in the City of Buena Park, County of Orange, State of California (the “Hotel”), which includes conference rooms, an executive lounge, fitness center, restaurant, bars, and cleaning services.

5. Construction of the Hotel began in 2016. To finance the construction of the Hotel, on May 24, 2016, the Debtor obtained a \$29.5 million construction loan (the “Loan”) from Evertrust Bank (“Evertrust”) as well as financing by three tranches of EB-5 investments totaling \$25 million. Through October 2019, approximately 85% of the Hotel construction had been completed.

6. In late 2019, Evertrust refused to issue the remaining \$4 million of the Loan, claiming a cost overrun on the construction of the Hotel. As a result of Evertrust’s refusal to provide the final \$4 million of financing, the Debtor was forced to cease construction activities. Despite the Debtor’s best efforts, due to the effects of the COVID-19 pandemic, the Debtor was unable to refinance the Loan.

1 7. During 2020, the Debtor engaged in active forbearance negotiations with Evertrust
2 to be able to allow the Hotel to recover from the effects of the COVID-19 pandemic, to obtain
3 refinancing or additional investments, and ultimately to recommence construction of the Hotel.
4 However, in December 2020, Evertrust sold its interests in the Loan to Shady Bird Lending, LLC
5 (“Shady Bird”) at a significant discount, for a reported purchase price of approximately \$19
6 million. Even though Shady Bird repeatedly represented to the Debtor that it would provide
7 Debtor with a two-year period within which to complete the construction of the Hotel, Shady Bird
8 immediately took steps to foreclose on the Hotel and provided Notice of a Trustee’s Sale for the
9 Hotel to be held on March 1, 2021.

10 8. As a result of the foregoing, the Debtor sought chapter 11 bankruptcy protection on
11 the Petition Date in order to prevent the impending foreclosure of the Hotel (which is the Debtor’s
12 primary asset), to preserve the equity in the Hotel for the benefit of all creditors (not just Shady
13 Bird), to obtain refinancing or investments to enable the Debtor to complete construction of the
14 Hotel, and to be afforded a reasonable opportunity to restructure its financial affairs and repay its
15 debts in an orderly fashion.

16 9. Although there is currently no active construction activity occurring at the Hotel,
17 the Debtor receives electricity and telephone services from certain utility companies (each a
18 “Utility Company,” and collectively, the “Utility Companies”) which are necessary to preserve and
19 maintain the Hotel. Since it is crucial that the utility services being provided to the Hotel by the
20 Utility Companies continue without interruption, the Debtor has filed concurrently herewith that
21 certain *Notice Of Motion And Motion For Entry Of Order Authorizing Debtor To Provide*
22 *Adequate Assurance Of Future Payment To Utility Companies Pursuant To 11 U.S.C. § 366* (the
23 “Motion”).

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1 10. As set forth in the Motion, the Debtor proposes that adequate “assurance of
2 payment” be provided to the Utility Companies in the form of cash deposits totaling approximately
3 \$1,950.00 (individually, a “Cash Deposit,” and collectively, the “Cash Deposits”). Pursuant to the
4 Motion, the Debtor seeks the entry of a Court order authorizing the Debtor to provide adequate
5 assurance of payment to the Utility Companies in the form of the Cash Deposits (in the amounts
6 proposed in the Motion), and deeming the Cash Deposits to constitute adequate assurance of
7 payment in accordance with the Bankruptcy Code, so that there is no interruption in the utility
8 services provided.

9 11. I am advised and believe that the Bankruptcy Code permits the Utility Companies
10 to discontinue service to the Debtor based on the commencement of the Debtor’s bankruptcy case
11 or the failure of the Debtor to pay a pre-petition debt for utility services provided if the Debtor does
12 not furnish adequate assurance of payment in the form of cash deposits (or other security) within
13 the first thirty (30) days after the Petition Date (*i.e.*, by Sunday, March 28, 2021). To ensure that
14 the amount of each Cash Deposit is approved by the Court and delivered to the respective Utility
15 Company before Sunday, March 28, 2021, the Debtor has filed the Application, pursuant to which
16 the Debtor is seeking to have the Motion heard on or before Wednesday, March 24, 2021.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19 Executed this 9th day of March, 2021, at Los Angeles, California.

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21 
22 DONALD CHAE

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE [LBR 9075-1(b)]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **March 12, 2021**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyb.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Daniel A Lev dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com; dlev@ecf.inforuptcy.com
- Grant A Nigolian grant@gnpclaw.com, process@gnpclaw.com; grant.nigolian@gmail.com
- Juliet Y Oh jyo@lnbrb.com, jyo@lnbrb.com
- Ho-El Park hpark@hparklaw.com
- Ronald N Richards ron@ronaldrichards.com, morani@ronaldrichards.com, justin@ronaldrichards.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On **March 12, 2021**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

None.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **March 12, 2021**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Attorney Service

The Honorable Erithe A. Smith
United States Bankruptcy Court
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5040 / Courtroom 5A
Santa Ana, CA 92701-4593

☒ Service List served by Overnight Mail on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

March 12, 2021

Stephanie Reichert

/s/ Stephanie Reichert

Date

Type Name

Signature

The Source Hotel, LLC
OUST, Secured, Top 20, RSN, Utilities

Counsel to Evertrust Bank
Michael Fletcher, Esq.
Frandzel Robins Bloom & Csato, L.C.
1000 Wilshire Boulevard, 19th Floor
Los Angeles, CA 90017-2427

United States Trustee (SA)
411 W Fourth St., Suite 7160
Santa Ana, CA 92701-4500

Secured Creditors:

3D Design - Millwork
8152 Indianapolis Ave.
Huntington Beach, CA 92646

Aragon Construction, Inc.
5440 Arrow Highway
Montclair, CA 91763

Beach Orangethorpe II, LLC
P.O. Box 489
Buena Park, CA 90621

Beach Orangethorpe III, LLC
P.O. Box 489
Buena Park, CA 90621

Beach Orangethorpe, LLC
P.O. Box 489
Buena Park, CA 90621

Beachamp Distributing Co.
1911 South Santa Fe Avenue
Compton, CA 90221

Best Quality Painting
818 N. Pacific Ave., #C
Glendale, CA 91203

Certified Tile
14557 Calvert St.
Van Nuys, CA 91411

Evergreen Electric Construction
629 Grove View Lane
La Canada, CA 91011

Iron Mechanical
721 North B Street
Suite 100
Sacramento, CA 95811

KS Steel Corp.
1748 Industrial Way
Los Angeles, CA 90023

Nemo & Rami
1930 W. Holt Ave.
Pomona, CA 91768

Northstar
404 North Berry Street
Brea, CA 92821-3104

Pan Pacific
18250 Euclid Street
Fountain Valley, CA 92708

PDG Wallcoverings
26492 Via Juanita
Mission Viejo, CA 92691

Prime Concrete Coatings
6127 James Alan St.
Cypress, CA 90630

Resco Electric Inc.
2431 W. Washington Blvd. Suite B
Los Angeles, CA 90018

Retrolock Corp
17915 Railroad Street
City of Industry, CA 91748

Salamander Fire Protection, Inc
6103 Tyrone Street
Van Nuys, CA 91401

Shady Bird Lending, LLC
c/o Law Offices of Ronald Richards
P.O. Box 11480
Beverly Hills, CA 90213

Solid Construction
883 Crenshaw Blvd.
Los Angeles, CA 90005

Sunbelt Controls, Inc.
888 E. Walnut Street
Pasadena, CA 91101

Grant Nigolian, P.C.
695 Town Center Drive, Suite 700
Costa Mesa, CA 92626

Hunt Ortmann Palffy Nieves et al.
301 North Lake Avenue, 7th Floor
Pasadena, CA 91101-1807

Law Office of Ho-El Park, P.C.
333 City Blvd. West, Suite 1700
Orange, CA 92868

Law Office of Michael N. Berke
25001 The Old Road
Santa Clara, CA 91381

Law Offices of Dennis G. Cosso
345 Oxford Drive
Arcadia, CA 91007

Porter Law Group, Inc.
7801 Folsom Blvd., Suite 101
Sacramento, CA 95826

Robinson & Robinson, LLP
2301 Dupont Drive, Suite 530
Irvine, CA 92612-7502

Shady Bird Lending, LLC
c/o Law Offices of Geoffrey Long
1601 N. Sepulveda Blvd., No. 729
Manhattan Beach, CA 90266

Splinter & Thai, LLP
25124 Narbonne Ave., Suite 106
Lomita, CA 90717-2140

Top 20 Unsecured Creditors:

Newgens, Inc.
14241 Foster Rd.
La Mirada, CA 90638

Cabrillo Hoist
P.O. Box 3179
Rancho Cucamonga, CA 91729

WESCO Distribution Inc.
6251 Knott Ave.
Buena Park, CA 90620

Harbor All Glass & Mirror, Inc.
1926 Placentia Ave.
Costa Mesa, CA 92627

Diablo Consulting
13200 Crossroads Parkway N
Ste. 115
City of Industry, CA 91746

Ace Tek Roofing Co.
747 S. Ardmore Ave., Suite 405
Los Angeles, CA 90005

Morrow Meadows
231 Benton Court
City of Industry, CA 91789

Chefs Toys
18430 Pacific Street
Fountain Valley, CA 92708

Stumbaugh & Associates, Inc.
3303 N. San Fernando Blvd
Burbank, CA 91504

HBA Procurement, Inc.
3216 Nebraska Ave.
Santa Monica, CA 90404

OJ Insulation LP
600 S Vincent Ave.
Azusa, CA 91702

DKY Architects
15375 Barranca Pkwy.
Suite A-210
Irvine, CA 92618

Master Glass
2225 W. Pico Blvd, Unit C
Los Angeles, CA 90006

Universal Flooring Systems
15573 Commerce Lane
Huntington Beach, CA 92649

L2 Specialties
3613 W. Macarthur Blvd., #611
Santa Ana, CA 92704

Ficcadenti Waggoner
16969 Von Karman Avenue
Suite 240
Irvine, CA 92606

Retrolock Corp
17915 Railroad Street
City of Industry, CA 91748

American Engineering Laboratories Inc.
PO Box 1816
Whittier, CA 90609

Utilities List:

AT&T
P.O. Box 5025
Carol Stream, IL 60197-5025

So. Cal. Edison
P.O. Box 6400
Rancho Cucamonga, CA 91729-6400